

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Harry K. Smith

6791 Happy Hollow Road

Trussville, AL 35173.

SCDOI File Number: 126760

**Default Order Revoking
All Licensing Privileges**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (2005), by the State of South Carolina Department of Insurance upon Harry K. Smith, by both certified mail, return receipt requested, and by regular mail on January 4, 2006.

That letter informed Mr. Smith of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. The letter further warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a non-resident insurance producer within the State of South Carolina. Despite that warning, Harry Smith has failed to respond to the Department's letter. On February 10, 2006, therefore, counsel for the Department filed an Affidavit of Default, and submitted the entire matter directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a non-resident insurance producer within the State of South Carolina for Delaware Valley Underwriting Agency, Inc., Mr. Smith failed to turn-over or satisfactorily account for an amount of at least \$4,336.20 in insurance premiums, to the Insurer.

Section 38-43-130 of the South Carolina Code provides the Director or his designee "may revoke or suspend a producer's license after ten day's notice...when it appears that a producer...has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State." This Code Section goes on in Subsection (C)(4) to describe "deceived or dealt unjustly with the citizens of this state" specifically to include, "improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance."

In accordance with my findings of fact, and considering Harry K. Smith's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that he violated S.C. Code Ann. § 38-43-130(2005) and that his non-resident insurance producer's license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2005). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110(3) (2005).

It is, therefore, ordered that the license of Harry K. Smith to do business as a non-resident insurance producer within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Mr. Smith is currently licensed, through the State of South Carolina Department of Insurance, as a non-resident insurance producer within the State of South Carolina.

This order becomes effective as of the date of my signature below.


Eleanor Kitzman
Director

Feb 10, 2006, at
Columbia, South Carolina

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Harry K. Smith,
6791 Happy Hollow Road
Trussville, AL 35173.

SCDOI File Number: 126760.

Affidavit of Default

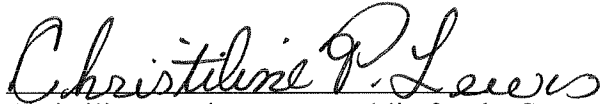
Personally appeared before me Jeffrey Jacobs, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was the attorney representing the State of South Carolina Department of Insurance (the Department) in this administrative action. He further stated the following:

The Department served notice on Harry K. Smith, at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke his license to act as a non-resident insurance producer within the State of South Carolina in thirty days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 2005), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." The Notice further informed Mr. Smith of his opportunity, **within thirty days**, to request in writing a public hearing.

The Department mailed the Notice by certified mail, return receipt requested, and by regular mail, on or about January 4, 2006. The United States Postal Service effected service of the Notice and the Return-Receipt Card was signed by the recipient. However, Harry Smith has made no request for a public hearing, nor provided any other response to the Department's letter. The time in which to do so has expired. He is now in default.


Jeffrey A. Jacobs
Chief Legal Counsel

Sworn to and subscribed before me
this 9th day of Feb, 2006



Christiline Lewis-Notary Public for the State of South Carolina
My Commission Expires: November 20, 2006.

South Carolina Department of Insurance
Post Office Box 100105
Columbia, South Carolina 29202
(803) 737-6132